WEST VIRGINIA CODE: §31E-14-1410

§31E-14-1410. Service on foreign corporation.

(a) The registered agent of a foreign corporation authorized to conduct activities in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

(b) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent return required pursuant to section three, article twelve-c, chapter eleven of this code if the foreign corporation:

(1) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(2) Has withdrawn from conducting activities in this state under section one thousand four hundred twenty of this article; or

(3) Has had its certificate of authority revoked under section one thousand four hundred thirty-one of this article.

(c)Service is perfected under subsection (b) of this section at the earliest of:

(1) The date the foreign corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(d) In addition to the methods of service on a foreign corporation provided in subsections (a) and (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf of each foreign corporation authorized to conduct affairs in this state pursuant to the provisions of this chapter. The Secretary of State has the authority to accept service of notice and process on behalf of each corporation and is an agent of the corporation upon whom service of notice and process may be made in this state for and upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-fact is necessary. Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State the original process, notice or demand and two copies of the process, notice or demand for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code. Immediately after being served with or accepting any process or notice, the Secretary of State shall: (1) File in his or her office a copy of the process or notice, endorsed as of the time of service, or acceptance; (2) transmit one copy of the process or notice by registered or certified mail,

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return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to: (A) The foreign corporation's registered agent; or (B) if there is no registered agent, to the individual whose name and address was last given to the Secretary of State's office as the person to whom notice and process are to be sent, and if no person has been named, to the principal office of the foreign corporation as that address was last given to the Secretary of State's office. If no address is available on record with the Secretary of State, then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Service or acceptance of process or notice is sufficient if return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, or to his or her office, showing the stamp of the United States postal service that delivery has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from United States postal service that acceptance of process, notice or demand has been accepted, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States postal service the Secretary of State shall return the refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued. No process or notice may be served on the Secretary of State or accepted by him or her less than ten days before the return day of the process or notice. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(e) Any foreign corporation conducting affairs in this state without having been authorized to do so pursuant to the provisions of this chapter is conclusively presumed to have appointed the Secretary of State as its attorney-in-fact with authority to accept service of notice and process on behalf of the corporation and upon whom service of notice and process may be made in this state for and upon the corporation in any action or proceeding arising from activities described in section one thousand four hundred one of this article. No act of a corporation appointing the Secretary of State as its attorney-in-fact is necessary. Immediately after being served with or accepting any process or notice, of which process or notice two copies for each defendant are to be furnished to the Secretary of State with the original notice or process, together with the fee required by section two, article one, chapter fifty-nine of this code, the Secretary of State shall file in his or her office a copy of the process or notice, with a note endorsed of the time of service or acceptance, and transmit one copy of the process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to the corporation at the address of its principal office, which address shall be stated in the process or notice. The service or acceptance of process or notice is sufficient if the return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or

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certified mail is returned to the Secretary of State, or to his or her office, showing thereon the stamp of the United States postal service that delivery thereof has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States postal service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States postal service the Secretary of State shall return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued. No process or notice may be served on the Secretary of State or accepted by him or her less than ten days before the return date thereof. The court may order continuances as may be reasonable to afford each defendant opportunity to defend the action or proceedings.

(f) This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

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